

No. 6:19-cv-001567-TMC, Rogers, et al. v. US DHHS, et al.

Exhibit 1 to DSS's Response to Plaintiffs' Motion to Compel

1/31/19 ACLU FOIA letter



January 31, 2019

South Carolina Department of Social Services
P.O. Box 1520
Columbia, SC 29202

RE: Freedom of Information Act Request Regarding CPAs in Region 1

Dear FOIA officer for SC DSS:

This letter constitutes a formal request under the South Carolina Freedom of Information Act, S.C. Code § 30-4-30, by the American Civil Liberties Union of South Carolina (ACLU-SC) for public records regarding private Child Placing Agencies ("CPAs") licensed by the South Carolina Department of Social Services ("DSS"), and the recruitment, support and licensing of prospective foster and adoptive families.

"Public record" includes all books, papers, maps, photographs, cards, tapes (both audio and visual, vhs, dvd or cd), recordings, or other documentary materials or electronic materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. S.C. Code § 30-4-20(c). We request, pursuant to S.C. Code § 30-4-30, that your office produce the following public records:

1. Documents sufficient to show (i) the identity of the CPAs that serve the Region 1 counties of Abbeville, Anderson, Cherokee, Greenville, Greenwood, Laurens, Newberry, Oconee, Pickens and Spartanburg; (ii) whether the activities of any of those CPAs are limited to or focused on serving children with special needs requiring therapeutic foster care; (iii) the age range of the children for whom each of those CPAs recruits, supports and licenses prospective foster and adoptive families; and (iv) the number of foster children who have been placed with families that have been recruited, supported and licensed by each of those CPAs over the last two fiscal years;
2. Documents sufficient to show the differences between the recruitment, support and licensing services provided to prospective foster and adoptive families by

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Miracle Hill Ministries ("Miracle Hill"), and those provided to prospective foster and adoptive families by DSS;

3. Documents sufficient to show the average length of time for a prospective foster or adoptive family to become licensed through each CPA listed in response to Request 1, and the average length of time for a prospective foster or adoptive family to become licensed through DSS;
4. Documents reflecting communications between any person at DSS and any person at i) Miracle Hill, ii) the United States Department of Health and Human Services (including any subdivision thereof, including the Administration for Children and Families ("ACF")), iii) the office of the Governor, or iv) the office of any state or federal elected officials, or among DSS employees, concerning the Governor's request to ACF for a deviation or waiver from federal non-discrimination requirements for CPAs that have a religious objection to compliance; and
5. Documents referencing the January 23, 2019, letter from ACF to Governor McMaster regarding "Request for Deviation or Exception from HHS Regulations 45 CFR § 75.300(c)" (the "ACF Letter"), or reflecting communications concerning the ACF Letter, including but not limited to interpretations of the ACF Letter or the scope of the exception granted by it.

In accordance with S.C. Code § 30-4-30 we request a response to this request within **15 working days** of receipt. All data that are stored in an electronic format should be provided on a CD-ROM or other electronic format where available.

The ACLU requests a waiver of all fees pursuant to S.C. Code. § 30-4-30 because such a waiver is in the public interest. The ACLU is a non-profit tax-exempt organization dedicated to the protection of civil liberties and constitutional rights of all people. The ACLU serves an important public education function, regularly disseminating information of interest to the public through newsletters, news briefings, right-to-know brochures, and other public education materials. If you challenge our entitlement to a waiver of fees, and if incurred fees will exceed \$100.00, please contact me before the charges are incurred.

If you determine that some portions of the requested records are exempt from disclosure, we will expect that you provide us with any reasonable severable portion of the records sought, and an explanation for any applicable exemptions. Please furnish all applicable records to the following address:

Susan Dunn
 ACLU of South Carolina
 P.O Box 20998
 Charleston, SC 29413
sdunn@aclusc.org

Thank you for your prompt attention to this matter. Do not hesitate to call me at (843) 282-7953 with any questions about this request.

Sincerely,

A handwritten signature in black ink, appearing to be 'SD' followed by a long horizontal stroke.

Susan Dunn
Legal Director

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